

March 03, 2010

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



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Signed and Filed: March 02, 2010

A handwritten signature in cursive script, reading "Dennis Montali", is written over a horizontal line.

**DENNIS MONTALI**  
**U.S. Bankruptcy Judge**

Attorney for: Secured Creditor,  
EMC Mortgage Corporation as servicing agent for Wells Fargo Bank, National Association as  
Trustee for the Certificateholders of Structured Asset Mortgage Investments II Inc., GreenPoint  
MTA Trust 2005-AR5, Mortgage Pass-Through Certificates, Series 2005-AR5, assigns and/or  
successors

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re:  
Imad N. Khater,  
Marilena V. Khater,  
  
Debtors.

) Case No. 09-32859 M  
)  
) Chapter 13  
)  
) RS No. KMR-4843  
)  
) **ORDER ON MOTION FOR RELIEF**  
) **FROM AUTOMATIC STAY**  
)  
) Date: 02/25/2010  
) Time: 9:30 a.m.  
) Ctrm: 22  
) Place: 235 Pine Street  
) San Francisco, CA  
)  
) Judge: Dennis Montali  
)

The motion of Secured Creditor, EMC Mortgage Corporation as servicing agent for  
Wells Fargo Bank, National Association as Trustee for the Certificateholders of Structured Asset  
Mortgage Investments II Inc., GreenPoint MTA Trust 2005-AR5, Mortgage Pass-Through  
Certificates, Series 2005-AR5, assigns and/or successors, for relief from the automatic stay came

1 on regularly for hearing by the Court on the date, time and place set forth above, before the  
2 Honorable Dennis Montali. Movant, EMC Mortgage Corporation as servicing agent for Wells  
3 Fargo Bank, National Association as Trustee for the Certificateholders of Structured Asset  
4 Mortgage Investments II Inc., GreenPoint MTA Trust 2005-AR5, Mortgage Pass-Through  
5 Certificates, Series 2005-AR5, assigns and/or successors, appeared by and through its Attorney  
6 of Record, McCarthy & Holthus, LLP by Kelly M. Raftery, Esq.. All other appearances are as  
7 noted in the court record.

8 Upon reading the papers and pleadings on file herein, and upon hearing oral argument  
9 and based on the evidence presented, the Court rules as follows:

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the automatic stay  
11 provisions of 11 U.S.C. § 362 be and are hereby terminated with respect to the interests of  
12 Movant, EMC Mortgage Corporation as servicing agent for Wells Fargo Bank, National  
13 Association as Trustee for the Certificateholders of Structured Asset Mortgage Investments II  
14 Inc., GreenPoint MTA Trust 2005-AR5, Mortgage Pass-Through Certificates, Series 2005-AR5,  
15 assigns and/or successors, in the real property commonly known as 740 East 3rd Avenue, #107,  
16 108, 207, 208, Mesa, AZ 85204.

17 IT IS FURTHER ORDERED that Movant may complete its foreclosure of said real  
18 property and proceed with post-foreclosure remedies, including any unlawful detainer action, in  
19 accordance with applicable law.

20 IT IS FURTHER ORDERED Movant, at its option, may offer, provide and enter into any  
21 potential forbearance agreement, loan modification, refinance agreement or other loan  
22 workout/loss mitigation agreement as allowed by state law. The Movant may contact the Debtor  
23 via telephone or written correspondence to offer such an agreement. Any such agreement shall  
24 be non-recourse unless included in a reaffirmation agreement.

25 IT IS FURTHER ORDERED that this Order shall be binding and effective despite any  
26 conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United  
27 States Code.  
28  
29

1 IT IS FURTHER ORDERED The fourteen day stay described in Bankruptcy Rule  
2 4001(a)(3) is waived upon relief.

3 The Trustee shall not make any further payments on account of movant's secured claim  
4 after the entry of this Order. The secured portion of Movant's claim is deemed withdrawn upon  
5 entry of this Order without prejudice to Movant's right to file an amended unsecured claim  
6 within 30 days for any deficiency

7 **\*\* END OF ORDER \*\***  
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**COURT SERVICE LIST**

**COUNSEL FOR DEBTORS**

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**TRUSTEE**

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**DEBTORS**

Imad N. Khater  
Marilena V. Khater  
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**SPECIAL NOTICE**

BAC Home Loans Servicing, LP  
c/o Polk, Prober & Raphael, A Law Corporation  
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Woodland Hills, CA 91364

**GMAC Mortgage, LLC**

Pite Duncan LLP  
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**Onewest Bank, FSB**

c/o Darlene C. Vigil  
Darlene C. Vigil 917 S Village Oaks Dr #200  
Covina, CA 91724

**GE Money Bank**

c/o Recovery Management Systems  
Attn: Ramesh Singh  
25 SE 2nd Ave., Suite 1120  
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